UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,	)	Criminal Action
	)	No. 21-40
Plaintiff,	)	
	)	
vs.	)	
	)	
PATRICK EDWARD McCAUGHEY, III,	)	Washington, DC
TRISTAN CHANDLER STEVENS,	)	May 4, 2021
DAVID LEE JUDD and	)	11:01 a.m.
CHRISTOPHER JOSEPH QUALGIN,	)	
	)	
Defendants.	)	
	)	
* * * * * * * * * * * * * * * * * *	)	

TRANSCRIPT OF ARRAIGNMENT/STATUS CONFERENCE
CONDUCTED VIA ZOOM
BEFORE THE HONORABLE TREVOR N. McFADDEN,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:
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FOR THE DEFENDANT JUDD:	ELIZABETH A. MULLIN, ESQ. OFFICE OF THE FEDERAL PUBLIC DEFENDER 1650 King Street Suite 500 Alexandria, Virginia 22314
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FOR PRETRIAL SERVICES:	CHRISTINE SCHUCK
REPORTED BY:	LISA EDWARDS, RDR, CRR Official Court Reporter United States District Court for the District of Columbia 333 Constitution Avenue, NW Room 6706 Washington, DC 20001 (202) 354-3269

THE COURTROOM DEPUTY: Your Honor, this is Criminal Case 21-40, the United States of America versus Patrick Edward McCaughey and Tristan Chandler Stevens.

Counsel, please introduce yourselves for the record, starting with the Government.

MS. BOND: Good morning, your Honor. Jocelyn Bond on behalf of the United States.

THE COURT: Good morning.

MS. JACKSON: And good morning, your Honor. Melissa Jackson on behalf of the United States.

THE COURT: Good morning, Ms. Jackson.

MR. URSO: Good morning, your Honor. Lindy Urso on behalf of Mr. McCaughey.

THE COURT: Good morning, Mr. Urso.

Good morning, Mr. McCaughey.

MS. JAHN: Good morning, your Honor. Dani Jahn on behalf of Tristan Stevens as well as AFPD Lauren Cobb, who is also present.

THE COURT: Good morning, ladies.

And do we have your client, Ms. Jahn?

MS. JAHN: Yes. Mr. Stevens is present. He's appearing via video. And in light of the CARES Act and the pandemic, Mr. Stevens agrees to appear in this fashion.

THE COURT: Good morning, Mr. Stevens. I see you now.

MR. DIAZ-COBB: Good morning, your Honor. Carlos Diaz-Cobo on behalf of Christopher Qualgin.

THE COURT: Good morning, Mr. Diaz-Cobo.

And your client is not present. Correct?

MR. DIAZ-COBB: That is correct, Judge.

THE COURT: Okay.

MS. MULLIN: Your Honor, this is Elizabeth Mullin from the Office of the Public Defender in the Eastern District of Virginia. I represent David Judd, who is also not present.

THE COURT: Good morning, Ms. Mullin.

Ms. Mullin, we are having issues with Northern Neck for Mr. Judd. Am I understanding that correctly?

MS. MULLIN: That's right. I was just told by the courtroom deputy, your Honor. For purposes of this status hearing, I'll waive his presence.

THE COURT: Okay. Were we going to arraign Mr. Judd today or has that already occurred?

MS. MULLIN: He's been arraigned, your Honor.

THE COURT: Okay.

MS. MULLIN: His next court date is a detention hearing before your Honor.

THE COURT: I've got a number of folks here and various things we need to accomplish.

Mr. Diaz-Cobo, I understand you wanted to do a

breakout room with me?

MR. DIAZ-COBB: Yes, Judge; and, of course, with the AUSA Melissa Jackson.

THE COURT: Okay. Now or at the end or does it matter?

MR. DIAZ-COBB: Judge, whatever pleases the Court. It probably makes more sense to go ahead and do that ahead of time.

THE COURT: Okay. And maybe Mr. Judd will appear in the meantime.

Ms. Chaclan, can you do that for us? I think there are two AUSAs.

THE COURTROOM DEPUTY: So both AUSAs?

MR. DIAZ-COBB: Yes. Sorry.

THE COURTROOM DEPUTY: It'll just take me a moment to find the names in the list.

THE COURT: That's fine.

Mr. Diaz-Cobo, this is off the record?

MR. DIAZ-COBB: Correct, your Honor.

THE COURT: So, Ms. Edwards, I think we won't need you then. Thank you.

(Brief pause in the proceedings.)

THE COURT: All right. I'm back.

THE COURTROOM DEPUTY: Not yet, your Honor.

THE COURT: No word on Mr. Judd?

THE COURTROOM DEPUTY: Your Honor, I don't think he'll be joining. I got a call -- I was in contact with Chashawn, and they weren't able to confirm today's hearing.

THE COURT: Do we need to arraign anyone this morning, Ms. Chaclan?

THE COURTROOM DEPUTY: We do on the second superseding indictment for Mr. McCaughey and also Mr. Stevens.

THE COURT: Okay. Mr. Urso, have you talked with your client about proceeding virtually for purposes of today's hearing?

MR. URSO: Yes, your Honor. He will consent to proceeding virtually; and we waive a reading of the second superseding indictment.

THE COURT: Okay. And, Ms. Jahn, I think you already indicated your client is prepared to proceed virtually for purposes of today's hearing?

MS. JAHN: That's right, your Honor.

THE COURT: I do think it's appropriate that we proceed virtually in light of the pandemic and the fact that we've got people spread around in jails all across the East Coast. I think it would create complications for them and potential COVID-related hazards. And so, given the authorization under the CARES Act, I will proceed virtually.

Mr. McCaughey and Mr. Stevens, the courtroom

deputy is going to rearraign you at this point. This is directed at you, but typically your attorneys respond on your behalf.

Ms. Chaclan?

THE COURTROOM DEPUTY: We'll start with Mr. Patrick McCaughey.

The record will reflect that the Defendant through counsel has received a copy of the superseding indictment.

Patrick Edward McCaughey, III, in Criminal Case No. 21-40, in which you are charged by indictment in Count 6, assaulting, resisting or impeding certain officers and aiding and abetting; Counts 11 and 12, assaulting, resisting or impeding certain officers using a dangerous weapon; Count 15, obstruction of an official proceeding and aiding and abetting; Count 16, civil disorder; Count 18, disorderly and disruptive conduct in a restricted building or grounds with a deadly or dangerous weapon; Count 22, engaging in physical violence in a restricted building or grounds with a deadly or dangerous weapon; Count 25, disorderly conduct in a Capitol Building; Count 26, act of physical violence in a Capitol grounds or buildings, do you waive the formal reading of the indictment and how do you wish to plead?

MR. URSO: We waive the formal reading and plead not guilty.

THE COURTROOM DEPUTY: May the record reflect that

the Defendant through counsel has received a copy of the superseding indictment.

Tristan Chandler Stevens, in Criminal Case 21-40, in which you are charged by indictment in Counts 6 and 7 with assaulting, resisting or impeding certain officers and aiding and abetting; Count 8, assaulting, resisting or impeding certain officers using a dangerous weapon; Count 14, assaulting, resisting or impeding certain officers and aiding and abetting; Count 15, obstruction of an official proceeding and aiding and abetting; Count 16, civil disorder; Count 17, disorderly and disruptive conduct in a restricted building or grounds with a deadly or dangerous weapon; Count 21, engaging in physical violence in a restricted building or grounds with a deadly or dangerous weapon; Count 25, disorderly conduct in a Capitol Building; and Count 26, act of physical violence in a Capitol grounds or building, do you waive the formal reading of the indictment and how do you wish to plead?

MS. JAHN: On behalf of Mr. Stevens, we waive formal reading of the indictment; we enter not guilty pleas to each count in which he is named; we'd assert all of his constitutional rights, including his right to a speedy jury trial, and also continue to request discovery in the matter.

THE COURT: Thank you, Ms. Jahn.

And thank you, Mr. Urso.

The next thing I wanted to discuss, we obviously are having an issue getting Mr. Qualgin before us.

I understand the Government is expecting to file a motion on this. Is that still correct?

MS. JACKSON: Yes, your Honor. I'll confirm with my supervisors whether that is the course we're going to be taking in this. But we do plan on filing a motion to release the stay on his transfer.

THE COURT: Obviously, it's not before me. I'm not going to rule on this. But I'll tell you my instinct here: I understand that the Government had previously sought the Chief Judge's involvement in directing where the Marshals Service has people, and Mr. Qualgin has consented to him staying there.

It's not immediately clear to me why the District Court should be involved in telling the Marshals Service where to hold people. But I'll also tell you my instinct is, once you invite us to get involved in this, you may be stuck with us.

So obviously, I haven't seen what you're going to say. I haven't seen Mr. Diaz-Cobo's response. But I think if you want to continue to have him detained, you need to figure out a way to have him appear. And I'm not sure why, given that we have one person in DC Jail, one person at Northern Neck who we have also not gotten here today, that

New Jersey would make much of a difference one way or the other.

Ms. Jahn, I understand you wanted to raise a conflict issue?

MS. JAHN: I did, your Honor.

As you know, now there's a second superseding indictment. And upon receipt and review of that indictment, it was determined that there was a personal conflict for me with regard to another individual that I represent. That was then fleshed out by administration of the Federal Defender's Office; and ultimately, Ms. Cobb, who has appeared from the Pensacola, Florida, Federal Defender's Office, had agreed to replace me if the Court would grant my request for moving to remove my representation due to the conflict.

THE COURT: Any concerns from the Government?

MS. BOND: No, your Honor.

MS. JACKSON: No, your Honor.

THE COURT: Ms. Jahn, thank you for your service.

Ms. Cobb, I will appoint you to represent Mr. Stevens going forward. Thank you for your willingness to assist.

MS. COBB: Thank you, your Honor.

THE COURT: Where do things stand from the Government? Ms. Bond, are you addressing that?

MS. BOND: Yes, your Honor. I can begin.

So at this point, we have made a good bit of progress since our last status hearing, and particularly in the area of general discovery.

With respect to Defendant McCaughey and Defendant Stevens, we have turned over significant discovery at this time. Mr. McCaughey has gotten almost all of the contents of his FBI file as well as almost all of the contents of Mr. Stevens's FBI file. He has also received over 100 individual body-worn camera video files from January 6th, and our estimation is that that is already hundreds of hours of body-worn camera.

Mr. Stevens has received similar discovery. He has received almost all of the contents of his own FBI file as well as almost all of the contents of Mr. McCaughey's file, the same hundreds of hours of body-worn camera. Discovery is ongoing. We are regularly giving them things that we find.

As we have alluded to in the past in the basis for our motion to exclude time prior to our last hearing, of course there is the big, voluminous discovery that's sort of overarching over all of these cases.

That, of course, is still outstanding, but our office as a whole is marching forward on that. We have been told that the office has a request for proposals to contract

with a vendor to establish a cloud-based discovery system. They expect to be able to select a vendor in June. The timeline is, once they select a vendor later in the summer, they will begin uploading that voluminous discovery such as body-worn camera, [indiscernible] footage and things of that are nature.

So we've made significant strides both on case-specific discovery as well as the voluminous discovery.

With respect to plea offers, we have not yet extended a plea offer to any of the Defendants; but we were recently given approval to do that. So Ms. Jackson and I are developing a plea offer, which will require supervisory approval. But we are hopeful to be able to extend those plea offers in the very near future.

Going forward, our request is for 45 -- at least 45 additional days until the next status hearing, of course, to begin, giving Mr. Judd and Mr. Qualgin their case-specific discovery. I believe in that 45-day period, our office will also make additional strides on providing that big, voluminous, overarching discovery.

THE COURT: I'm not thrilled to hear about July. That feels like a long time away, given some of these Defendants were charged almost five months ago.

So you're requesting another status conference in 45 days, ma'am?

MS. BOND: Yes, your Honor. We're asking that that time be excluded under the Speedy Trial Act.

THE COURT: And is -- you're expecting to provide pleas for all four Defendants?

MS. BOND: Your Honor, I don't want to speak out of turn. It is the expectation at this juncture.

THE COURT: Thank you.

Mr. Urso, your position?

MR. URSO: Your Honor, we strenuously object to excluding any further time.

As I pointed out in the last -- I think our last meeting, the Government chose the way this investigation has gone. Typical -- as the Court knows, typical federal criminal investigations happen in increments. The Government does its full investigation, has all of its discovery in place, and then it makes decisions to go to the grand jury.

For political or whatever reasons, whatever their reasons, it was for their reasons that they chose to arrest my client in January and other people, and that was their choice. And the reason there are speedy trial issues is because of prosecutorial discretion or choice. There's no way around it.

If they waited -- there was no pressing urge, no pressing need, just like in RICO cases or any other federal

cases. They leave crime bosses out on the street for two years while they're investigating and buttoning things up. So there was no reason other than their own to proceed in this fashion.

My client shouldn't have to sit and wait for his trial while the Government gets its ducks in a row. It's 100 percent the result of the Government's decision to proceed in this piecemeal, rushed fashion, which is completely atypical of how they normally do things.

So I don't think my client should have to pay the price from that choice. I strenuously, strenuously object to any further exclusions.

THE COURT: Thank you, Mr. Urso.

Ms. Cobb?

MS. COBB: Your Honor, we're in a little bit of a different position, given that Mr. Stevens is out of custody and also given that I just signed on to this case in the last 48 hours, approximately. So we don't have any objection at this point.

THE COURT: Okay. Mr. Diaz-Cobo, let me ask, are you waiving your client's appearance for purposes of today's proceeding, sir?

MR. DIAZ-COBB: I am, Judge.

THE COURT: Thank you.

I'll hear from you on the Government's proposal.

MR. DIAZ-COBB: Judge, we also are somewhat situated differently. At this point, Judge, we're not going to object to 45 days.

THE COURT: And Ms. Mullin?

MS. MULLIN: Your Honor, at this time I would object to the exclusion of the 45 days.

My client is detained. He's been indicted since April. I recognize that I was just appointed to the case, and Ms. Jackson has given me limited discovery at this point. But given that he remains detained and, frankly, I haven't had a chance to discuss this issue with him, as obviously he's not here, we object.

THE COURT: Okay. I think it is appropriate for us to come back in about 45 days and to toll the speedy trial clock in the interim.

I understand the concerns, especially from the detained Defendants. And frankly, we're not just going to let this case meander. I would expect when we come back that we're going to be picking a trial date unless -- well, for any parties who have not pled guilty. And you can certainly think then about appropriate discovery timelines in light of the specific Defendants and trial at that point.

But frankly, we've got four Defendants here, a couple of whom have just been added. It's going to be facing difficulties getting a trial date for everybody. I

think there are unusual circumstances about the January 6th cases that mean there's a lot more discovery than normally would be the case.

So I do think the interests of justice outweigh the interests of the public and the Defendants in a speedy trial to the extent that we're going to toll the speedy trial clock until mid-June on this. We're not just going to keep doing this indefinitely, though. I understand the detained Defendants' desire to move quickly.

I think I had previously given the Due Process Protections Act language for some of the Defendants. But since we have a couple of new Defendants, let me reiterate that, pursuant to the Due Process Protections Act, the Court orders that all Government counsel shall review their disclosure obligations under *Brady versus Maryland* and its progeny as set forth in Local Criminal Rule 5.1 and comply with its provisions. The failure to comply could result in dismissal of the indictment or information, dismissal of individual charges, exclusion of Government evidence or witnesses, continuances, Bar discipline and any other remedy that is just under the circumstances.

We'll also reissue that as a minute order for all of the Defendants.

I'm going to address the motion of Mr. McCaughey to modify his conditions of release in a moment.

Anything else we should be discussing, Ms. Bond?

MS. BOND: The only remaining thing is this morning we filed a request to extend the protective order to Mr. Judd and Mr. Qualgin. Both of the attorneys have consented to that. So we're asking your Honor to issue that order in the near future.

THE COURT: I saw that. I've already signed it. We should have it uploaded.

MS. BOND: Thank you, Judge.

THE COURT: Before the Court is the Defendant McCaughey's motion to reopen and modify his conditions of -- well, his detention order pending trial. This raises a number of reviews that I want to discuss briefly.

And for the following reasons, I do intend to grant the motion to reopen and to modify the conditions of release:

First, Defendant McCaughey points out that I applied the wrong rebuttable presumption standard. That's correct. There was no rebuttable presumption in this case that would have argued for him being detained.

As the Government points out, I also indicated that, given the evidence the defense had applied, that the rebuttable presumption really did not carry any weight in this case and so as a practical matter that made no difference to my detention decision. And it certainly would

not in itself be a reason for me to release the Defendant now. But for the record, there was no rebuttable presumption for detention.

In fact, I should have and do now come with the presumption that the Defendant -- that there are conditions of release less than detention that could operate, and it's only if the Government overcomes that presumption that the Defendant must be held should I be holding him.

Among the various filings here -- and I've read all of them, both from the Government and the defense -- is the Government's supplement regarding 18 USC 111, one of the most serious charges the Defendant is facing. And as the Government points out, the Government must prove that either the Defendant inflicted bodily injury on the officer or used a deadly or dangerous weapon to assault the officer.

I hadn't focused on this sufficiently in the past, and I appreciate the Government's candor on this issue. The Government admits it's not relying on any infliction of bodily injury here as to the officer. In fact, there's no allegation that the officer was injured. Both the Government and I had assumed that Officer Hodges had been screaming out in pain in the videos where we saw him screaming. However, Mr. McCaughey has introduced evidence of an interview with Officer Hodges where he said that he was essentially screaming to signal to other officers that

he was trapped. He doesn't say anything about being injured himself.

Now, I think the Government is right: He could have been both screaming for help and screaming in pain. And I'm not making any finding that he wasn't injured or wasn't in pain. But I think the record, the very limited record that I have before me now, does not support a finding that the Defendant injured or put Officer Hodges in pain. To the contrary, we do have evidence that Mr. McCaughey lowered Officer Hodges's mask to protect him from OC spray being sprayed by other rioters and that he repeatedly signaled to other rioters to help Officer Hodges.

And Officer Hodges does indicate in his interview that he -- that someone made a way up for him. I don't know if Officer Hodges was referring to the Defendant or another officer. I'm not going to assume that it was the Defendant there. But I think, having rewatched the videos and considered this new evidence, it does put that incident into a slightly different light.

So the Government is not relying on infliction of bodily injury. Rather, they're relying on the use of a deadly or dangerous weapon, which here they say is the police shield that the Defendant apparently took from officers.

I've got to say, based on what I've seen thus far,

I'm dubious that the shield was a dangerous or deadly weapon as used by the Defendant. I certainly think a shield could be used as a deadly or dangerous weapon, particularly if you're using the straight edge of the shield as some sort of blade or cutting device. But what I've seen in the tapes that I've seen is the Defendant was primarily using a shield as a shield, to protect himself from baton strikes from the officers and also to push the officers back.

None of that is to say that that wasn't assaultive conduct; but I'm not sure there was violent conduct. And it's not immediately clear to me that he was using this shield as a dangerous weapon or as a deadly weapon rather than as a shield is typically used, which is primarily for protection and a kind of pushing device, not as an assaultive or striking device.

As I reviewed the tapes, it looks to me like the Defendant was trying to push his way through the officers with other rioters to enter the Capitol rather than that he was trying to hurt or attack officers. I certainly think there were other people who were hurting and attacking officers, and perhaps there's evidence that I'm not aware of that that's what the Defendant was doing. But based on my review of the tapes, it seems to me that the Defendant was primarily just trying to get into the Capitol, forcing his way past the officers.

And that I think is relevant both to his dangerousness, but also to a recent DC Circuit decision, *United States versus Munchel*, 991 F.3d 1273, from earlier this year.

Now, *Munchel* does have language that frankly upholds the Defendant, where it says, "In our view, those who actually assaulted police officers and broke through windows, doors and barricades and those who aided, conspired with, planned and coordinated such actions are in a different category of dangerousness than those who cheered on the violence or entered the Capitol after others cleared the way." That's from Page 1284.

But it also chided one of my colleagues for failing to demonstrate that it considered the specific circumstances that made it possible on January 6th for Munchel and Eisenhart to threaten the peaceful transfer of power. "The Appellant had a unique opportunity to obstruct democracy on January 6th because of the Electoral College vote tally taking place that day and concurrently scheduled rally and protest." That's also on Page 1284.

And I think I do need to consider the circumstances of January 6th and the Defendant's actions there and whether there's any evidence from that that the Defendant poses an ongoing risk to the community.

As I said, he didn't seem to be primarily focused

on violence or assaultive conduct; rather, it seems like he was probably trying to disrupt the election.

Now, obviously, this is troubling and likely criminal. But I'm not sure that that poses the same type of threat moving forward such that detention is the only option.

So I want to just briefly reconsider how I would tally the various factors I must consider under the Bail Reform Act.

In light of all I said the last time and what I've just said, I think in looking to the first factor, the nature and circumstances of the offense, I'm going to assume that weighs in favor of detention. But I don't think it weighs very heavily in favor of detention.

The strength of the evidence: Now, unlike what I said before, I think it actually weighs in favor of release. I think there's obviously incredibly strong evidence that the Defendant was at the Capitol on January 6th and quite possibly committed various crimes. But as to a couple of these really salient issues right now, whether he injured anyone, whether he was using the shield as a dangerous or deadly weapon, I think the strength of the evidence is actually weak as to those points. And so I would not find that the strength of the evidence weighs in favor of detention.

The Defendant's history and characteristics have always argued for release in light of his, as far as I understand it, essentially spotless record, with no evidence of criminal history whatsoever, which again makes his actions on January 6th -- puts a certain light or context on his actions on January 6th.

And finally, the Defendant's danger to the community: I think that also favors release for the reasons I said. And specifically, in light of *Munchel*, I think whatever criminal activity the Defendant may have committed on January 6th seems to have been a very -- it was a highly unusual event in our country. It also seems to have been out of character with the Defendant from everything else I've seen of the Defendant. And in light of my current finding that the evidence before me does not suggest he was attacking or trying to act violently towards or hurt officers, I just don't see him posing an ongoing danger to the community.

Of course, the Government's burden is to show by clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person in the community. I don't believe they've shown that now.

The Government apparently is no longer arguing that the Defendant poses a flight risk. I agree that in

light of -- though it was always kind of a close case and in light of the additional evidence the Defendant has provided of his willingness to ensure his return, I don't think the flight risk would justify detention either.

So for all those reasons, I'm going to order the Defendant released.

What does the Government request in terms of release conditions?

Well, actually, before I ask you, do we have Pretrial Services on the phone?

THE PRETRIAL SERVICES OFFICER: Good morning, your Honor. Christine Schuck, Pretrial Services.

THE COURT: Hi, Ms. Shuck.

Do you have any recommendations for release of Mr. McCaughey?

THE PRETRIAL SERVICES OFFICER: Yes, your Honor.

I just need to put on the record our recommendation as stated in the pretrial report remains the same. But at the request of chambers, pretrial services did submit a list of of possible conditions based on the report that was submitted by the Southern District of New York.

So those conditions would include reporting to the District of Connecticut, because he lives in the state of Connecticut, so he would be under the supervision of the District of Connecticut. So he'd report to them as

directed.

Additionally, to surrender all passports to the US Probation Office for the District of Connecticut.

Travel would be restricted to the District of Connecticut and Washington, DC, when in-person court appearances are required. The Court would need to approve any and all other travel.

He would need to stay away from and avoid all contact with Co-Defendants and key witnesses; not to possess firearms, a destructive device or other weapons; not to unlawfully use or possess a narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner; submit to drug testing as directed by the US Probation Office for the District of Connecticut; participate in inpatient or outpatient substance abuse therapy or counseling as directed by that office; be placed on home detention, which would be monitored through GPS monitoring, and pay for any associated costs with that -- that come with the location monitoring program; and report any contacts with law enforcement to the US Probation Office for the District of Connecticut as soon as possible.

THE COURT: Thank you, Ms. Schuck.

Government?

MS. BOND: Thank you, your Honor.

The Government's position remains that

Mr. McCaughey should be detained.

But in light of your Honor's ruling, the most significant release conditions are home detention, the GPS monitoring, as well as surrendering his passports to the probation office there in Connecticut.

THE COURT: Thank you, Ms. Bond.

Mr. Urso?

MR. URSO: That's all fine, your Honor.

I would just ask, if there's -- to the extent there's paperwork, I'd ask the Court to release him subject to giving us a chance to submit any paperwork that might be necessary. I don't know if your Honor's -- is it going to be a release without security? Then it'll probably be simple. We probably won't have any paperwork.

THE COURT: No. I do want to take you up on your offer of the bond on the Defendant's father's home in New York; and his release will be subject to that taking place.

I'm going to order the Defendant released on the following conditions: one, that the Defendant offer as bond the $450,000 or so real estate in New York that was mentioned in the Defendant's paperwork; two, that he surrenders all travel documents and passports; three, that he remains in the District of Connecticut except for any in-person visits to US District Court here in DC; four, that

he not use illegal narcotics and participate in substance abuse testing and treatment as determined by the US Probation Office; five, that he submits to home detention with GPS location monitoring; six, that he does not obtain or possess any weapons; seven, that he has no contact with any Defendants or likely witnesses in this case; and, eight, that he reports any contacts with law enforcement within 24 hours to the US Probation Office.

The Defendant must also report in person to the District of Connecticut US Probation Office upon his release.

Thank you, Ms. Schuck.

MR. URSO: Judge, if I could, on the home detention, would the Court put in exceptions for work, like if he's going to work, if he's got to meet his lawyer and perhaps medical appointments or church?

THE COURT: So my understanding was the Defendant is not employed at this time. Was I wrong about that?

MR. URSO: Yes, your Honor. Well, he works with his father. They have construction jobs pending now. So they were not working during the COVID, but the business picked up. And I put that in my papers. I even put a job quote, I think, that is pending that his dad is working on right now.

THE COURT: So --

THE PRETRIAL SERVICES OFFICER: Your Honor?

THE COURT: Yes, Ms. Schuck.

THE PRETRIAL SERVICES OFFICER: Home detention allows for what defense counsel is asking for. Home incarceration does not.

THE COURT: Okay. So it sounds like you're covered, Mr. Urso. If you have any issues, I suggest you talk with the US Probation Office there in Connecticut or Ms. Schuck, who is very on-the-ball, here in DC. And if there's still any issue, you can raise it.

MR. URSO: Thank you.

THE COURT: Anything further for us to discuss today, Ms. Bond?

MS. BOND: Your Honor, would you be willing to put on the record that Mr. McCaughey is to surrender both his US and his German travel documents?

THE COURT: Yes. Thank you.

When I said "travel documents," I did mean any US passports and other travel documents. Thank you.

Mr. Urso, anything further for Mr. McCaughey?

MR. URSO: Judge, just so I'm clear, he will be released once we get the paperwork filed for the real estate bond? Or is he --

THE COURT: And I think the passports also need to be provided.

MR. URSO: Well, that's got to go to Connecticut. Okay. So should I perhaps get Ms. Schuck's contact information?

THE COURT: Yes. You can do that offline. Feel free to contact Ms. Chaclan or my chambers if you don't have it.

MR. URSO: Thank you, your Honor.

THE COURT: Ms. Cobb, anything further on behalf of your client?

MS. COBB: No, your Honor. Thank you.

THE COURT: Mr. Diaz-Cobo?

MR. DIAZ-COBB: Nothing further, Judge.

THE COURT: And Ms. Mullin?

MS. MULLIN: No, your Honor. Thank you.

THE COURT: Ms. Chaclan, do you have a proposed date for the next hearing?

THE COURTROOM DEPUTY: I do, your Honor. June 16th at 11:00 a.m.

THE COURT: Ms. Bond, does that work for the Government?

MS. BOND: Yes, your Honor, it does.

THE COURT: Mr. Urso?

MR. URSO: Yes, your Honor.

THE COURT: Ms. Cobb?

MS. COBB: Yes, your Honor.

THE COURT: Mr. Diaz-Cobo?

MR. DIAZ-COBB: Yes, Judge. That works. Thank you.

THE COURT: Ms. Mullin, don't mess it up for us.

MS. MULLIN: It works, your Honor.

I just have a question. Will the hearings be in person? I don't know if your court is -- we started going in person now, so I'm just inquiring.

THE COURT: This hearing will be virtual, I think.

MS. MULLIN: Okay.

THE COURT: I think we are going to be switching to more in-person. But at this point, I think it makes sense for it to be virtual.

I will say if there's going to be a plea, obviously, if the Defendant wants to do that in person, I would certainly accommodate that. But for now, let's assume it's virtual.

MS. MULLIN: Thank you, your Honor. The 16th of June works for me.

THE COURT: All right. Thanks, folks.

Mr. Stevens, it looks to me like you're maintaining the conditions of your release. I just want you to continue to maintain those conditions and report for the virtual hearing that we've described. I don't think I mentioned this to you before.

Mr. McCaughey, you should know as well that I do take the Defendants' behavior while on pretrial status into consideration when it comes time for sentencing. So make sure you maintain all your release conditions and remain in contact with Pretrial Services and with your attorney.

Thanks, folks.

MR. URSO: Thank you, Judge.

MS. BOND: Thank you, your Honor.

MR. DIAZ-COBB: Thank you.

(Proceedings concluded.)

CERTIFICATE

I, LISA EDWARDS, RDR, CRR, do hereby certify that the foregoing constitutes a true and accurate transcript of my stenographic notes, and is a full, true, and complete transcript of the proceedings produced to the best of my ability.

Please note: This hearing occurred during the COVID-19 pandemic and is therefore subject to the technological limitations of reporting remotely.

Dated this 5th day of May, 2021.

/s/ Lisa Edwards, RDR, CRR
Official Court Reporter
United States District Court for the
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